

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

Chapter 7 Case  
BKY 04-33477-DDO

Paul Henry Voth,

Debtor.

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**NOTICE OF HEARING AND MOTION TO EXTEND PERIOD TO**  
**OBJECT TO CLAIMED EXEMPT PROPERTY**

To: The Debtor and other entities specified in Local Rule 9013-3.

1. Nauni Jo Manty, Trustee for the above-captioned bankruptcy estate (“Trustee”), moves the Court for the relief requested below, and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion at **2:00 p.m., September 8, 2004**, before The Honorable Dennis D. O’Brien, Bankruptcy Judge, in Courtroom No. 228A, at the U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota, or as soon thereafter as counsel can be heard.

3. Any objection to the relief requested herein must be filed and delivered not later than September 1, 2004, which is seven (7) days before the time set for the hearing, or filed and served by mail not later than August 27, 2004, which is ten (10) days before the time set for the hearing. **UNLESS A WRITTEN RESPONSE IS TIMELY SERVED AND FILED, THE COURT MAY ENTER AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT A HEARING.**

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Fed. R. Bankr. P. 4003(b) and 5005 and Local Rule 1070-1. This is a core proceeding. The petition commencing this chapter 7 case was filed on June 11, 2004. The case is now pending in this court.

5. This motion is filed pursuant to Bankruptcy Rule 9006 and Local Rule 9013-2. The Trustee seeks an order extending the period within which to timely file an objection to claimed exempt property. However, out of an abundance of caution the Trustee is seeking an extension of time to object to the claimed exemptions.

6. The 341 Meeting of Creditors was held July 23, 2004. The Trustee did not conclude the 341 meeting.

7. The Trustee has requested that the Debtor produce additional information regarding the appraised value of the Debtor's claimed exempt real property. The Trustee requires the information in order to determine whether to pursue an objection to the Debtor's claimed exemptions.

8. In light of the fact the Trustee has requested information from the Debtor and the Debtor needs additional time to produce the information, the Trustee asserts "cause" exists to extend the time to object to the Debtor's claim of exemptions for 60 days pursuant to Bankruptcy Rule 4003(b) in order to allow the Trustee to conduct further inquiry of the Debtor's affairs.

WHEREFORE, the Trustee respectfully requests this Court to enter an order extending the time to object to claimed exempt property until October 23, 2004.

Dated: August 11, 2004

/s/ Nauni Jo Manty

Nauni Jo Manty  
Trustee in Bankruptcy  
Attorney ID No. 230352  
Rider Bennett  
333 S. 7<sup>th</sup> St., Suite 2000  
Minneapolis, MN 55402

**VERIFICATION**

I, Nauni Jo Manty, Trustee for the Bankruptcy Estate of Paul Henry Voth, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information, and belief.

DATED:       August 11, 2004

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*/e/ Nauni Jo Manty*  
Nauni Jo Manty

UNITED STATES BANKRUPTCY COURT  
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**MEMORANDUM IN SUPPORT OF MOTION TO EXTEND PERIOD TO  
OBJECT TO EXEMPTIONS**

This Memorandum of Law is submitted in support of the motion by Nauri Jo Manty, Trustee for the above-captioned bankruptcy estate (the "Trustee") to extend the period to timely object to the Debtor's claimed exemptions.

**FACTS**

The petition commencing this case was filed under Chapter 7 on June 11, 2004. The Trustee has requested that the Debtor produce additional information regarding the Debtor's claimed exemptions. The 341 Meeting of Creditors was held on July 23, 2004. The Trustee did not conclude the 341 Meeting of Creditors. The Trustee requires the information in order to determine whether to pursue an objection to the Debtor's claimed exemptions. Out of an abundance of caution, the Trustee is, therefore, seeking an extension of time to file objections to exemptions.

**DISCUSSION**

Bankr. R. 4003(b) provides:

The trustee . . . may object to the list of property claimed as exempt within 30 days after the conclusion of the 341 of creditors . . . unless, within such period, further time is granted by the court.

The Trustee requests that the time period in which to object to exemptions be extended for 60 days, so she may conclude her investigation.

These rules impose an absolute bar to the filing of an objection to exemptions after the respective periods have run. These are harsh rules that can work substantial injustice where a trustee may have valid objections but cannot complete discovery of the Debtor's exemptions prior to the expiration of the relevant objection periods. As such, the Trustee requests her motion be granted.

### **CONCLUSION**

For all the reasons set forth herein, the Trustee respectfully requests that the Court extend the time period to object to Debtors' claimed exemptions be extended to October 23, 2004.

Dated: August 11, 2004

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*/e/ Nauni Jo Manty*

Nauni Jo Manty  
Trustee in Bankruptcy  
Attorney ID No. 230352  
Rider Bennett  
333 S. 7<sup>th</sup> St., Suite 2000  
Minneapolis, MN 55402  
(612)340-7950

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UNSWORN CERTIFICATE OF SERVICE

I, Donna M. Voth, declare under penalty of perjury that on August 11, 2004, I mailed copies of the attached **Notice of Hearing and Motion to Extend Period to Object to Claimed Exempt Property, Memorandum in Support of Motion to Extend Period to Object to Exemptions, proposed Order, and Unsworn Certificate of Service** for each entity below:

Mr. Paul H. Voth 24878 CO 9 Boulevard Goodhue, MN 55027	Kurt M. Anderson PO Box 2434 Minneapolis, MN 55402-0434
United States Trustee 1015 U.S. Courthouse 300 So. Fourth St. Minneapolis, MN 55415	Roylene A. Champeaux Assistant United States Attorney 600 U.S. Courthouse 300 South Fourth Street Minneapolis, MN 55415

Executed on: August 11, 2004

Signed: /e/ Donna M. Voth

Donna M. Voth  
Legal Administrative Assistant  
Rider Bennett  
333 S. 7<sup>th</sup> Street, Suite 2000  
Minneapolis, MN 55402  
612-335-3998

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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**ORDER**

This matter came before the Court on the motion by Nauri Jo Manty, the Trustee for the Bankruptcy case of Paul Henry Voth, ("Trustee") for an Order extending the time to object to claimed exempt property until October 21, 2004. Appearances were noted in the record at the time of the hearing.

Based upon the files and records, the Court makes this Order pursuant to the Rules of Bankruptcy Procedure.

**IT IS ORDERED:**

1. The Trustee's Motion to Extend Period to Object to Claimed Exempt Property is granted.
2. The Trustee shall have until October 23, 2004, to object to the Debtors' claimed exemptions.

Dated: \_\_\_\_\_, 2004.

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Dennis D. O'Brien  
United States Bankruptcy Judge